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DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3555

RIN 0575-AD04

Single Family Housing Guaranteed Loan Program

AGENCY: Rural Housing Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Housing Service (RHS or Agency) is amending the current regulation for the Single Family Housing Guaranteed Loan Program (SFHGLP) on the subject of liquidation value appraisals. In order to reduce overall processing time, reduce cost, and expedite claim submission, lenders will order the liquidation value appraisal used to estimate a loss claim against the SFHGLP instead of the Agency. Currently, if a Real Estate Owned (REO) property remains unsold by the lender at the end of the permissible marketing period, the Agency orders a liquidation value appraisal and applies an acquisition and management resale factor to estimate holding and disposition cost. This amendment requires the servicing lender to order the liquidation value appraisal. The costs associated with obtaining the liquidation value appraisal can then be included in the liquidation costs paid

under the guarantee.

DATES: Effective Date: [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION
IN THE **FEDERAL REGISTER**].

FOR FURTHER INFORMATION CONTACT: Lilian Lipton, Finance and Loan Analyst, Single Family Housing Guaranteed Loan Division, STOP 0784, Room 2250, USDA Rural Development, South Agriculture Building, 1400 Independence Avenue SW., Washington, DC 20250-0784, telephone: (202) 260-8012, email is lilian.lipton@wdc.usda.gov.

SUPPLEMENTARY INFORMATION: RHS amends the current regulation for the Single Family Housing Guaranteed Loan Program (SFHGLP) on the subject of liquidation value appraisals. In order to reduce overall processing time, reduce cost, and expedite claim submission, lenders will order the liquidation value appraisal used to estimate a loss claim against the SFHGLP instead of the Agency. Specifically, RHS amends 7 CFR 3555.306(f)(3), 3555.352(e), 3555.353(b)(1), and 3555.354(b)(1)(i) and (ii) and (b)(2).

Executive Order 12866, Classification

This rule has been determined to be non-significant and, therefore was not reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988, Civil Justice Reform

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Except where specified, all State and local laws and regulations that are in direct conflict with this rule will be preempted. Federal funds carry Federal requirements. No person is required to apply for funding under SFHGLP, but if they do apply and are selected for funding, they must comply with the requirements applicable to the Federal program funds. This final rule is not retroactive. It will not affect agreements entered into prior to the effective date of the rule. Before any judicial action may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR part 11 must be exhausted.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effect of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the Agency generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of \$100 million, or more, in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the Agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal

governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." It is the determination of the Agency that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, neither an Environmental Assessment nor an Environmental Impact Statement is required.

Executive Order 13132, Federalism

The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the national government and States, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) the undersigned has determined and certified by signature of this document that this rule change will not have a significant impact on a substantial number of small entities. This rule does not impose any significant new requirements on Agency applicants and borrowers, and the regulatory changes affect only Agency determination of program benefits for guarantees of loans made to individuals.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

Executive Order 13175 imposes requirements on RHS in the development of regulatory policies that have Tribal implications or preempt tribal laws. RHS has determined that the rule does not have a substantial direct effect on one or more Indian Tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and Indian Tribes. Thus, this final rule is not subject to the requirements of Executive Order 13175. If a Tribe determines that this rule has implications of which RHS is not aware and would like to engage with RHS on this rule, please contact USDA Rural Development's Native American Coordinator at (720) 544-2911 or AIAN@wdc.usda.gov.

Executive Order 12372, Intergovernmental Consultation

These loans are subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. RHS conducts intergovernmental consultations for each SFHGLP in accordance with 2 CFR part 415, subpart C.

Programs Affected

The program affected by this regulation is listed in the Catalog of Federal Domestic Assistance under Number 10.410, Very Low to Moderate Income Housing Loans (Section 502 Rural Housing Loans).

Paperwork Reduction Act

The information collection and record keeping requirements contained in this regulation have been approved by OMB in accordance

with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The assigned OMB control number is 0570-0179.

E-Government Act Compliance

The Agency is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Non-Discrimination Policy

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Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov.

Individuals who are deaf, hard of hearing or have speech disabilities and you wish to file either an EEO or program complaint please contact USDA through the Federal Relay Service at (800) 877-8339 or (800) 845-6136 (in Spanish).

Persons with disabilities, who wish to file a program complaint, please see information above on how to contact us by mail directly or by email. If you require alternative means of communication for program information (e.g., Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

I. Background Information

On October 6, 2015, RHS published a proposed rule with request for comments for the Single Family Housing Guaranteed Loan Program (SFHGLP) (80 FR 60298-60300). Rural Development received comments from one respondent. The comments are addressed below.

II. Discussion of the comments received:

Comment: The respondent strongly supported the Agency's proposal and requested clarification: 1) if mortgagees will be required to order a liquidation value appraisal when a sale date for a possessed home has been scheduled, but the sale date falls outside the permissible marketing period; 2) if mortgagees should order a liquidation value appraisal for the property when a contract for a sale falls through after the permissible marketing period has expired; and 3) if

mortgagees will be held liable for not having ordered a liquidation value appraisal in the event a home sale is scheduled to be finalized on a date that is near the end of the permissible marketing period and the sale falls through.

RHS response: Technical details of lenders responsibilities while servicing non-performing loans are explained in the Agency's 3555 Handbook, therefore there will be no changes made in this provision.

List of Subjects in 7 CFR Part 3555

Home improvement, Loan programs - housing and community development, Mortgage insurance, Mortgages, Rural areas.

Therefore, chapter XXXV, title 7 of the Code of Federal Regulations is amended as follows:

PART 3555 - GUARANTEED RURAL HOUSING PROGRAM

1. The authority citation for part 3555 continues to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 1471 *et seq.*

Subpart G - Servicing Non-Performing Loans

2. Section 3555.306 is amended by revising paragraph (f) (3) to read as follows:

§ 3555.306 Liquidation.

(f) * * *

(3) The lender must notify the Agency when the property has not been sold within 30 days of the expiration of the permissible marketing period. If the REO remains unsold at the end of the permissible marketing period, the lender will order a liquidation value appraisal and the Agency will apply an acquisition and management resale factor to estimate holding and disposition cost. Interest expenses accrued beyond 90 days of the foreclosure sale date or expiration of any redemption period, whichever is later, will be the responsibility of the lender and not covered by the guarantee.

Subpart H - Collecting on the Guarantee

3. Section 3555.352 is amended by revising paragraph (e) to read as follows:

§ 3555.352 Loss covered by the guarantee.

(e) Liquidation costs. Reasonable and customary liquidation costs, such as attorney fees, liquidation value appraisals, and foreclosure costs. Annual fees advanced by the lender to the Agency are ineligible for reimbursement when calculating the loss payment, as otherwise provided by the Agency.

4. Section 3555.353 is amended by revising paragraph (b) (1) to read as follows:

§ 3555.353 Net recovery value.

(b) * * *

(1) The value of the property as determined by a liquidation value appraisal. The value should be determined as if the property would be sold without the market exposure it would ordinarily receive in a normal transaction, or within 90 days, minus;

5. Section 3555.354 is amended by revising paragraphs (b) (1) and (2) to read as follows:

§ 3555.354 Loss claim procedures.

(b) * * *

(1) The lender must submit a loss claim request that includes a completed liquidation value appraisal within 30 calendar days of the period ending:

(i) Nine (9) months after either foreclosure or the end of any applicable redemption period, whichever is later, if the property remains unsold and is not located on American Indian restricted land;
or

(ii) Twelve (12) months after either foreclosure or the end of any applicable redemption period, whichever is later, if the property remains unsold and is located on American Indian restricted land. Late claims made beyond this period of time, or submitted with a liquidation value appraisal not completed within the timeframes described in paragraphs (b) (1) (i) and (ii) of this section, may be rejected.

(2) The lender must submit a loss claim that includes the completed liquidation value appraisal within 30 calendar days of receiving the appraisal. Late claims made beyond this period of time, or submitted with a liquidation value appraisal not completed within the timeframes described in paragraphs (b) (1) (i) and (ii) of this section, may be rejected.

Dated: March 26, 2016.

Tony Hernandez,
Administrator,
Rural Housing Service.

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